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Attorneys for Plaintiff
ARTIFEX SOFTWARE, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

ARTIFEX SOFTWARE INC.,

Plaintiff,

v.

DIEBOLD INC., an Ohio corporation,
PREMIER ELECTION SOLUTIONS, INC.,
a Delaware corporation,

Defendants.

Case No. C 08-04837 SC

**JOINT REQUEST TO CONTINUE
THE HEARING DATE FOR
DEFENDANT DIEBOLD INC.'S
FRCP 12(B)(6) MOTION TO DISMISS
PLAINTIFF'S CLAIM AGAINST
DIEBOLD, INC.; ~~PROPOSED~~
ORDER**

WHEREAS, on January 30, 2009, Defendant Diebold Inc. filed a motion to dismiss Plaintiff Artifex Software Inc.'s ("Plaintiff") claim for copyright infringement against Diebold Inc.;

WHEREAS, the hearing for this motion is currently scheduled for April 3, 2009;

WHEREAS, Plaintiff and Defendants Diebold Inc. and Premier Election Solutions, Inc. (together "Defendants") have agreed in principle to settle this Action and are finalizing the language of a settlement agreement that fully and finally resolves all claims, disputes, and differences in this Action;

WHEREAS, the parties estimate that they will be able to file a stipulation of dismissal within 30 days;

WHEREAS, on March 30, 2009, the Court postponed the Case Management Conference

1 in this Action from April 3, 2009 to May 29, 2009; and

2 WHEREAS, the parties agree that to conserve judicial resources, the hearing for
3 Defendant Diebold Inc.'s FRCP 12(b)(6) motion to dismiss Plaintiff's claim for copyright
4 infringement against Diebold Inc. should not go forward on April 3, 2009.

5 THE PARTIES HEREBY JOINTLY REQUEST that the hearing for Defendant Diebold's
6 FRCP 12(b)(6) Motion to Dismiss Plaintiff's Claim Against Diebold, Inc. be continued from
7 April 3, 2009 at 10:00 a.m. to May 29, 2009 at 10:00 a.m., in the above-entitled Court, located at
8 Courtroom 1, 17th Floor, 450 Golden Gate Avenue, San Francisco, California, 94102.

9 Dated: April 1, 2009

JONES DAY

11 By: /s/ Gregory L. Lippetz
12 Gregory L. Lippetz

13 Attorneys for Defendant
14 DIEBOLD INC. and PREMIER ELECTION
15 SOLUTIONS, INC.

16 In accordance with General Order No. 45, Rule X, the above signatory attests that
17 concurrence in the filing of this document has been obtained from the signatory below.

19 Dated: April 1, 2009

O'MELVENY & MYERS LLP

21 By: /s/ Luann L. Simmons
22 Luann L. Simmons

23 Attorneys for Plaintiff
24 ARTIFEX SOFTWARE INC.

[PROPOSED] ORDER

Pursuant to the parties' joint request, the hearing for Defendant Diebold's FRCP 12(b)(6) Motion to Dismiss Plaintiff's Claim Against Diebold, Inc. is hereby postponed until May 29, 2009 at 10:00 am.

IT IS SO ORDERED

Dated: April 2, 2009

